

Ordinance No. _____, Series 2007

AN ORDINANCE ENACTING A NEW CHAPTER OF THE LOUISVILLE/JEFFERSON COUNTY METRO CODE OF ORDINANCES [LMCO] RELATING TO PARADES AND PUBLIC ASSEMBLIES; AND AMENDING LMCO 99.03(11) RELATING TO NOISE EMANATING FROM PARADES.

**Sponsored By: Councilman Rick Blackwell, District 12
and Councilman Kelly Downard, District 16**

NOW THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT [THE COUNCIL] AS FOLLOWS:

SECTION I. A new Chapter of the Louisville/Jefferson County Metro Government Code of Ordinances is hereby created as follows:

PARADES and PUBLIC ASSEMBLIES

A. DEFINITIONS

CHIEF OF POLICE. The Chief of the Louisville/Jefferson County Metro Police Department or such police officer as he/she shall designate from within the Police Department.

COMMUNITY FAIR. Any fair, exposition, or exhibition consisting solely of amusements, entertainment, or food or beverage service, and which interferes with the normal flow or regulation of pedestrian or vehicular traffic, including emergency vehicles, or occupies any street, sidewalk, or public area within Jefferson County.

IPL DIRECTOR. The Director of the Louisville/Jefferson County Metro Department of Inspections, Permits, and Licenses, or his/her designee.

PARADE. Any march, demonstration, motorcade, foot race, or procession of twenty-five [25] or more persons, vehicles, or animals, or any combination thereof upon or within any public area within Jefferson County for the purpose of attracting public attention, and which interferes with the normal flow or regulation of traffic, including emergency vehicles, upon or within any public area. For purposes of this Chapter, a community fair shall not be deemed to be a parade.

PEACE OFFICER. For purposes of this Chapter, a peace officer shall be as defined in KRS 431.005(4) and 15.380(1).

PERMIT. A parade permit or a public assembly permit issued by the IPL Director as required by this Chapter.

PERSON. An individual, partnership, corporation, or unincorporated group or association.

POLICE DEPARTMENT. The Louisville/Jefferson County Metro Police Department

PUBLIC AREA. Any grounds within Jefferson County owned or controlled by Metro Government such as streets, public ways, parks, and other areas traditionally used or dedicated as public fora. For purposes of this Chapter, a public area shall not include any building or grounds owned or controlled by Metro Government which has been designated by the Mayor or the Metro Council as a non-public or a limited public area or forum.

PUBLIC ASSEMBLY. Any meeting, picket line, rally, or gathering of more than twenty-five [25] persons for a common purpose as a result of prior planning which interferes with the normal flow or regulation of pedestrian or vehicular traffic, including

emergency vehicles, or occupies any public area within Jefferson County. For purposes of this Chapter, a community fair shall not be deemed to be a public assembly.

PUBLIC WAY. The entire width between property lines of every way, dedicated passway, road, or street set aside for public travel, except bridle paths and foot paths.

STREET. Every public road, interstate highway, avenue, alley, or boulevard, bridge, viaduct or trestle and the approaches to them and includes off_street parking facilities offered for public use.,

VEHICLE. Every device in, on or by which any person or property is or may be transported or drawn on any street except devices moved by human power or used exclusively on stationary rails or tracks.

WORKS DIRECTOR. The Director of the Louisville Metro Department of Public Works.

B. PERMIT REQUIRED.

(1) No person shall participate or take part in, promote, organize, form, hold or assist in organizing any parade or public assembly within Jefferson County unless a permit has been obtained from the IPL Director.

(2) The IPL Director shall issue a permit in all cases except where the time, place and manner are not in conformity with the rules and restrictions set forth below and except where the permit would conflict as to time or place with a permit previously issued.

(3) This ordinance shall not apply to, and no parade or public assembly permit is required for the following activities:

(a) Funeral processions;

(b) Picket lines which do not interfere with the normal flow of pedestrian or vehicular traffic, including emergency vehicles;

(c) Students going to and from school classes or participating in educational activities, providing the conduct is under the immediate direction and supervision of the proper school authorities;

(d) Any parade or public assembly, as previously defined herein, which takes place and is conducted wholly and/or entirely within the corporate boundaries of one or more municipalities within Jefferson County which has enacted legislation pertaining to the same or similar subject matter as regulated by this ordinance, if the municipal legislation by its terms regulates such conduct and does so by the use of standards which are the same as or more stringent than those set forth in this Chapter.

(e) A governmental agency conducting an assembly, procession or ceremony within the scope of its functions;

(f) A spontaneous public assembly occasioned by news or events coming into public knowledge with two days of the public assembly, provided that the organizer(s) thereof gives written notice to the IPL Director twenty-four hours prior to such a public assembly.

C. APPLICATION FOR PERMIT.

(1) A person seeking issuance of a parade permit or a public assembly permit shall file an application with the IPL Director in a manner specified by the IPL Director on forms provided by the IPL Director for that purpose. Every applicant shall be furnished a copy of this Chapter with the application form.

(2) An application for a parade permit or a public assembly permit shall be filed with the IPL Director not less than five days nor more than 60 days before the date on which the parade or public assembly is proposed to take place.

(3) An applicant for a parade permit or a public assembly permit shall submit the following information to the IPL Director:

(a) The full name, address, and contact number[s] of the person[s] seeking to conduct the parade or public assembly;

(b) If the parade or public assembly is proposed to be conducted for, on behalf of, or by an organization, the name, address, and contact number[s] of the principal office of the organization and of the officers of the organization authorized to apply for the permit;

(c) The name, address, and contact number of any officer or representative of the applicant, other than the applicant, who will be responsible for the conduct of the parade or public assembly;

(d) The date when the parade or public assembly is to be conducted;

(e) The location of the public assembly or the route to be traveled by the parade, including its starting point and its termination point;

(f) The approximate number of persons, animals, and vehicles which will constitute the parade, the type of animals, if any, and the description of the vehicles; or the approximate number of persons who will participate in the public assembly;

(g) The hours when the parade or public assembly will start and terminate;

(h) A statement as to whether the parade or public assembly will occupy all or any a portion of the width of the streets, sidewalk, park, or other public area proposed to be utilized or traversed;

(i) The location by street of any assembly area for a parade;

(k) The day and time at which units of the parade will begin to assemble at any such assembly area or areas;

(l) The interval of space to be maintained between units of the parade;

(4) The application for a parade permit may contain a request for a waiver of the restrictions as to materials used in signs, posters, banners, or plaques to be used in a parade contained in Sections K.(5) and (6) of this Chapter. The request shall state the specific grounds for the waiver, and the specific modifications the applicant sought by the applicant. The IPL Director shall grant the waiver only upon a showing of good cause and necessity for the waiver. If the waiver is granted, the permit shall state with specificity which provisions contained in Sections K.(5) and (6) of this Chapter are waived and in what manner.

(5) The application form shall contain a statement, which the applicant shall sign, that:

(a) the applicant has received and read and understood a copy of this Chapter; and

(b) The applicant understands that a permit, if issued, may be revoked for failure to comply with any of the terms or conditions contained in the permit, or for a violation of any of the provisions of this Chapter; and

(c) The applicant acknowledges that a permit may be denied or revoked on the grounds of material false statements made in the application.

(6) There shall be paid at the time of filing an application for a permit a fee of \$10.

D. STANDARDS FOR ISSUANCE OF PERMIT.

The IPL Director shall issue a permit unless, from consideration of the application he/she finds and concludes that one or more of the following circumstances exist:

(1) The sole purpose of the parade or public assembly is advertising any product, goods, wares, merchandise or event and is designed to be held for private profit; or

(2) The time, route and size of the parade will substantially disrupt the use of any street or any public place or will substantially interrupt the safe and orderly movement of other traffic, including emergency traffic, contiguous to its route; or

(3) The parade is of a size or nature that its conduct requires the diversion of so great a number of police officers to properly police the line of movement and the area contiguous thereto that allowing the parade would deny reasonable police protection to Jefferson County; or

(4) The parade or public assembly is of a size and nature that its conduct would interfere with the proper fire and police protection or ambulance service to the areas contiguous thereto, or would interfere with the movement of ambulances or police or fire vehicles and equipment, or other similar emergency vehicles or equipment.

E. NOTICE OF REJECTION OF PERMIT.

(1) The IPL Director shall act on the application for a permit within ten days, Saturdays, Sundays and holidays excepted, after the filing thereof. If the IPL Director denies the application, in whole or in part, he/she shall immediately notify the applicant by telephone, U.S. Mail, or electronic mail, which notice shall state the reason[s] for denial of the permit or any part thereof.

(2) The notice of denial shall include an alternative proposal, if any, made under § F. of this Chapter.

(3) The notice of denial shall advise the applicant of his/her/its rights to appeal the decision of the IPL Director, and the procedures for exercising those rights.

F. ALTERNATIVE PERMIT.

(1) The IPL Director, in denying an application for a permit, may offer to issue the permit on a date, at a time or, for a parade, over a route different than that requested by the applicant, if issuing an alternative permit in that manner would facilitate crowd control or serve the interests of relieving congestion on public ways or ensuring public health, safety, welfare, or order, and for no other reason.

(2) An applicant desiring to accept an alternative permit shall, within three days after notice of the action of the IPL Director, file a written notice of his/her/its acceptance with the IPL Director.

(3) An alternative permit shall conform to the requirements of, and shall have the effect of, a permit under this chapter.

G. CONTENTS OF A PERMIT.

Each parade permit shall state the following information:

- (1) Starting date, time, and duration of the parade or public assembly;
- (2) Minimum speed (for a parade);
- (3) Maximum speed (for a parade);
- (4) Maximum interval of space to be maintained between the units of a parade;
- (5) The portions of any public way, sidewalk, park or public area to be traversed, utilized, or occupied;
- (6) The maximum length of the parade in miles or fractions thereof;
- (7) Such other information as the IPL Director shall find helpful, informative, or necessary to the enforcement of this ordinance;
- (8) A printed notice that any violation of the express terms and conditions of the permit, or of any provision of this Chapter will constitute grounds for revocation of the permit.

H. DUTIES OF PERMITEES.

A permittee shall comply with all terms and conditions set forth in a permit, with the provisions of this Chapter, and with all other applicable laws and ordinances. The permittee or designated officer or representative of the permittee who is responsible for the conduct of the parade or public assembly shall carry the permit on his/her person during the entire duration of the parade or public assembly.

I. PUBLIC CONDUCT DURING PARADES AND PUBLIC ASSEMBLIES.

(1) *Interference.* No person shall hamper, obstruct, impede, or interfere with any person participating in a parade or public assembly, or with any vehicle or animal participating or used in a parade.

(2) *Driving through parades.* Unless otherwise directed by a peace officer, no driver of a vehicle except a law enforcement or emergency vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(3) *Parking on parade route or in the vicinity of a public assembly.* The Chief of Police or the Works Director shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or public way, or any part thereof, constituting a part of the route of a parade or in the vicinity of a public assembly. The Chief of Police or the Works Director shall post signs of such prohibitions or restrictions and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

J. REVOCATION OF PERMIT.

The IPL Director may revoke a permit issued hereunder only on any of the following grounds:

(1) The applicant has made a material false statement or representation to the IPL Director on or in connection with an application for a permit. For purposes of this section, a false statement or representation shall include, but not be limited to, a material omission.

(2) The applicant has failed to comply with any of the terms and conditions of the permit, or with any of the provisions of this Chapter.

(3) Where revocation of the permit is clearly necessary to ensure public safety, order, or welfare.

K. PROHIBITED CONDUCT IN CONNECTION WITH A PARADE OR PUBLIC ASSEMBLY

(1) Except for a spontaneous public assembly, as provided in Section B.(3)(f) of this Chapter, it shall be unlawful for any person to stage, present, promote, advertise, or conduct a parade or public assembly in a public area without first having obtained a permit as herein provided;

(2) It shall be unlawful for any person to participate or take part in, promote, organize, form, hold or assist in organizing any parade or public assembly within any non-public or limited public building or grounds within Jefferson County owned or controlled by the Metro Government except in conformance with rules and regulations established by the Mayor or the Metro Council for such buildings or grounds.

(3) It shall be unlawful for any person to participate in a parade or public assembly for which the person knows a permit has not been granted.

(4) It shall be unlawful for any person in charge of, or responsible for the conduct of a parade or public assembly to knowingly fail to comply with any term or condition of a permit for the same.

(5) Except as specifically authorized by the IPL Director in a parade permit, it shall be unlawful for any person, other than a peace officer, participating in a parade or public assembly to carry or possess any length of metal, lumber, wood, or composite

material for purposes of displaying a sign, banner, poster, plaque, or notice, unless such object is one-half inch [$\frac{1}{2}$ "] or less in thickness and two inches [2"] or less in width or, if not generally rectangular in shape, such object shall not exceed one inch [1"] in its thickest dimension.

(6) Except as specifically authorized by the IPL Director in a parade permit, it shall be unlawful for any person, other than a peace officer, participating in a parade or public assembly to carry or possess any sign, banner, poster, or plaque, whether or not mounted on a length of material as specified in subsection (5), above, unless such sign, banner, poster, or plaque consists or is constructed of cloth, paper, or flexible plastic or composite material.

(7) It shall be unlawful for any person to engage in any activity at or in the immediate vicinity of a parade or public assembly which would constitute a substantial hazard to public health or safety.

(8) It shall be unlawful for any person wearing a mask or hood in connection with a parade or public assembly not to remove the mask or hood at the conclusion of the parade or off the site of the public assembly.

L. NOTIFICATION OF MAJOR EVENTS ON PRIVATE PROPERTY

The owner, lessee, or person(s) in control of private property shall give thirty (30) days prior written notice to the IPL Director of any event to be held on the property which can be reasonably expected to generate pedestrian or vehicular traffic of a volume which will interfere with the normal passage of emergency vehicles on any public way contiguous to the property. The IPL Director shall notify the Chief of Police,

the appropriate Fire Department or Fire District, and Metro Emergency Management Services, of the event.

M. IMPLEMENTATION; LIMITATIONS

The Mayor is authorized to promulgate guidelines and procedures applicable to parades, public assemblies, and community fairs to implement this Chapter provided that:

- (1) such guidelines and procedures are not inconsistent with this Chapter; and
- (2) in the case of parades and public assemblies, such guidelines or procedures do not depart from the standards for issuance and revocation of permits under this Chapter.

N. APPEALS

(1) An appeal of the IPL Director's denial or revocation of a permit, in whole or in part, may be made to the Director of the Department of Public Safety within three business days after the IPL Director's determination in accordance with procedures promulgated by the Director of the Department of Public Safety. The Director's decision on appeal shall be final for all purposes under this Chapter.

(2) At the time the IPL Director denies or revokes a permit, in whole or in part, he/she shall advise the applicant or the permittee, in writing, of the applicant's or the permittee's rights to appeal and the procedures for taking an appeal.

O. REFERENCES TO STATUTES AND OTHER ORDINANCES

Any Kentucky state statute or administrative regulation, or any ordinance of the Louisville/Jefferson County Metro Government cited, referred to, or incorporated by reference in this Chapter shall be deemed to refer to or incorporate by reference any amendment, revision, or successor to the statute, regulation, or ordinance so cited, referred to, or incorporated by reference.

P. SEVERABILITY.

If any provision of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application

Q. PENALTY.

Any person who violates any provision of this ordinance shall be guilty of a violation and shall be fined not less than \$25 nor more than \$100.

SECTION II. LMCO 99.03(11) is hereby amended to read as follows:

(11) Noises from activities at parades and public assemblies, provided a valid ~~parade~~ permit has been obtained from the Metro Government;

SECTION III. This Ordinance shall take effect upon its passage and approval.

Kathleen J. Hebron
Metro Council Clerk

Rick Blackwell
President of the Council

Jerry E. Abramson
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

IRV Maze
Jefferson County Attorney

BY: _____

Parades/Public Assemblies – 2 April 2007 - roc/waw